

*Unsealed
January 7, 2008*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division

UNITED STATES OF AMERICA)	FILED UNDER SEAL
)	
v.)	<u>INDICTMENT</u>
)	
CHRISTOPHER CARTWRIGHT,)	Criminal No.
PAUL WILKINSON,)	
FAR EAST RUSSIA AIRCRAFT)	
SERVICES, &)	
AEROCONTROL, LTD.)	
)	
Defendants)	

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

1. The Defense Energy Support Center ("DESC"), a department of the Defense Logistics Agency, within the United States Department of Defense ("DOD"), is responsible for soliciting competitive bids for into-plane and Posts, Camps & Stations ("PC&S") fuel supply contracts to service United States military and civilian activities, evaluating those offers, and awarding resultant fuel supply contracts at numerous locations worldwide. Into-plane contracts require the contractor to deliver aviation fuel into authorized aircraft, including military and civilian DOD aircraft, at a particular commercial airport location. Generally, a single DESC into-plane solicitation will contain line items for numerous airport locations within a broad geographic area, but offerors are not required to submit an offer on all airport locations. Rather, each airport location may be awarded as a separate contract or, where a single offeror is awarded

multiple airport locations from the same solicitation, those airport locations may be awarded in a single contract. PC&S contracts are awarded for delivery of fuel into authorized storage facilities, including tanks, bladders, or tanker trucks at destinations worldwide.

2. DESC awarded into-plane and PC&S fuel supply contracts via a full and open multi-stage competitive procurement process in which competing offerors submitted "initial" bids by a given date, which were reviewed by officials at DESC. After receipt of the initial bids, competing offerors were permitted to submit revised "best and final" bids. Offerors were not, however, allowed to view competing offerors' initial bids in preparing their best and final bids. A competitor could not submit a best and final bid unless it had also submitted an initial bid.

3. In February 2005, DESC issued Solicitation SP0600-05-R-0046 for into-plane fuel supply, containing line items for 109 airports throughout Asia and Eastern Europe. After an amendment that changed the initial due date, Solicitation SP0600-05-R-0046 called for initial bids to be submitted on April 11, 2005. Best and final bids for some of the locations were due in or around the first week of August 2005. In addition, in or around May 2005, DESC re-opened Solicitation SP0600-04-R-0012 for the into-plane contract at Baku, Azerbaijan. Solicitation SP0600-04-R-0012 was subsequently awarded on or around May 10, 2005. Finally, on or about June 16, 2005, DESC issued Solicitation SP0600-05-R-0205 for a PC&S fuel supply contract at Bagram Air Field, Afghanistan. The initial due date for SP0600-05-R-0205 was July 1, 2005. Amendments to Solicitation SP0600-05-R-0205 postponed the initial proposal due date until March 31, 2006, and best and final bids were due by July 13, 2006. The PC&S contract for Bagram Air Field, Afghanistan was awarded on August 16, 2006.

4. AVCARD was a division of Kropp Holdings, LLC, an S-corporation organized

and existing under the laws of Maryland, with its principal place of business in Hunt Valley, MD. AVCARD was a provider of into-plane and PC&S fuel supply services to DESC. As part of its normal business operations, AVCARD developed and assembled bid packages that were submitted to DESC, in response to solicitations for into-plane and PC&S fuel supply services. In the process of assembling these bid packages, AVCARD created and maintained underlying data, including economic data, cost information, supplier information, profit and loss data, business forecasts and other confidential information that assisted it in deciding on which locations to bid and what price to bid at each location. AVCARD took reasonable measures to keep this information secret, and this information derived independent economic value, both actual and potential, because it was secret and not readily ascertainable by the public.

5. One of the defendants, Christopher CARTWRIGHT ("CARTWRIGHT"), a U.S. citizen, resided in Prague, Czech Republic. In or around 1992, CARTWRIGHT co-founded FAR EAST RUSSIA AIRCRAFT SERVICES and served as a Managing Co-Director. In or around 2005, CARTWRIGHT co-founded AEROCONTROL, LTD.

6. One of the defendants, Paul WILKINSON ("WILKINSON"), a U.S. citizen, resided in Prague, Czech Republic. In or around 1992, WILKINSON co-founded FAR EAST RUSSIA AIRCRAFT SERVICES with CARTWRIGHT and served as a Managing Co-Director. In or around 2005, WILKINSON co-founded AEROCONTROL, LTD with CARTWRIGHT.

7. One of the defendants, FAR EAST RUSSIA AIRCRAFT SERVICES ("FERAS") was headquartered at 5 Pod Kastany, Prague, Czech Republic. FERAS was co-founded by CARTWRIGHT and WILKINSON in or around 1992. It was affiliated with a company called Universal Weather & Aviation, which is located at 8797 Tallyho, Houston, Texas. FERAS

maintained an office at the Universal Weather & Aviation complex in Houston.

8. One of the defendants, AEROCONTROL, LTD. ("AEROCONTROL"), was headquartered on the Isle of Man, a self-governing dependency of the United Kingdom. AEROCONTROL was co-founded by CARTWRIGHT and WILKINSON in or around 2005.

9. Matthew W. BITTENBENDER ("BITTENBENDER"), resided in Baltimore, Maryland, in the District of Maryland. From at least 1999 until December 2005, BITTENBENDER was employed by AVCARD and, as an employee, owed AVCARD a fiduciary duty. From at least 2002 until December 2005, BITTENBENDER held the position of Contract Fuel Manager for AVCARD and was responsible for preparing AVCARD's bids for certain government contracts, including DESC into-plane and PC&S fuel supply contracts. In particular, BITTENBENDER was responsible for helping prepare AVCARD's bid packages for DESC Solicitations SP0600-05-R-0046, SP0600-04-R-0012, and SP0600-05-R-0205. BITTENBENDER was terminated from AVCARD in or around December 2005.

10. Various individuals not made defendants in this Indictment, participated as co-conspirators in the offenses charged herein and performed acts and made statements in furtherance thereof. Whenever this Indictment refers to any act, deed or transaction of any company, it means that the company engaged in the act, deed or transaction by or through its officers, directors, employees, agents or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

COUNT 1: CONSPIRACY TO DEFRAUD THE UNITED STATES (18 U.S.C. § 371)

DESCRIPTION OF THE OFFENSE

11. The United States re-alleges paragraphs one through ten of this Indictment and

incorporates by reference these paragraphs as if they were fully set forth herein.

12. Beginning in or about February 2005 and continuing until at least in or about July 2006, the exact dates being unknown to the grand jury, in the District of Maryland and elsewhere, the defendants, CARTWRIGHT, WILKINSON, FERAS, and AEROCONTROL, and their co-conspirators did knowingly and wilfully combine, conspire, confederate, and agree to defraud the United States and an agency thereof, to wit, DESC, by impeding, impairing, obstructing, and defeating the lawful function of DESC's full and open competitive procurement process for into-plane and PC&S fuel supply contracts in violation of Title 18, United States Code, Section 371.

MANNER AND MEANS

13. The defendants and their co-conspirators would and did carry out the conspiracy and effect its unlawful objects and executed the unlawful scheme to defraud the United States through the following manner and means, among others:

A. It was part of the conspiracy that BITTENBENDER would misappropriate AVCARD'S confidential bid information and the data underlying that bid information, including AVCARD'S "initial" and "best and final" bids for various DESC into-plane and PC&S fuel supply solicitations, including SP0600-05-R-0046, SP0600-04-R-0012, and SP0600-05-R-0205.

B. It was part of the conspiracy that BITTENBENDER would transmit AVCARD'S confidential bid information and the data underlying that information to CARTWRIGHT, WILKINSON, FERAS, and AEROCONTROL via interstate and foreign email and telephone communications.

C. It was part of the conspiracy that CARTWRIGHT and WILKINSON

would use AVCARD'S bid information to bid against AVCARD at those locations where their companies, FERAS and AEROCONTROL, were directly competing with AVCARD, in such a way as to foreclose AVCARD from competing freely for these DESC contracts and as to impede, impair, obstruct, and defeat DESC in the lawful function of its competitive bidding process.

D. It was part of the conspiracy that WILKINSON, CARTWRIGHT, FERAS, and AEROCONTROL would pay BITTENBENDER a flat fee, plus a commission of 10% of the profits at every into-plane location where FERAS'S or AEROCONTROL'S bid successfully won the DESC contract. BITTENBENDER was also to be paid a percentage of the fuel sales for PC&S fuel supply contracts won by FERAS or AEROCONTROL.

E. It was part of the conspiracy that CARTWRIGHT, WILKINSON, FERAS, AEROCONTROL, and BITTENBENDER would conceal and misrepresent the nature and extent of their relationship from any other person, including DESC and AVCARD.

OVERT ACTS

14. In furtherance of the conspiracy and to achieve the objects and purposes thereof, CARTWRIGHT, WILKINSON, FERAS, and AEROCONTROL committed and caused to be committed the following overt acts, among others, in the District of Maryland and elsewhere:

A. On or about February 28, 2005, BITTENBENDER, while an employee of AVCARD, sent an email from within the District of Maryland to WILKINSON in the Czech Republic, suggesting terms of an agreement wherein BITTENBENDER

would consult for FERAS and AEROCONTROL on DESC contracts that had been solicited in Solicitation SP0600-05-R-0046.

B. On or about March 8, 2005, after several days of negotiations, CARTWRIGHT sent back via email a "final draft" of the agreement, which called for BITTENBENDER to receive a flat fee, plus 10% of the profits at each location where FERAS or AEROCONTROL was the winning bidder. On March 8, BITTENBENDER accepted the final agreement, and on or about March 9-10, 2005, an agreement to this effect was executed by BITTENBENDER and by WILKINSON on behalf of FERAS and AEROCONTROL.

C. In or about the middle of March 2005, BITTENBENDER, WILKINSON and CARTWRIGHT agreed that BITTENBENDER would provide them with AVCARD'S confidential bid information in order that FERAS and AEROCONTROL could use that information to bid non-competitively against AVCARD at those locations where they were directly competing with AVCARD.

D. On or about March 17, 2005, BITTENBENDER sent an invoice via email from within the District of Maryland to WILKINSON and CARTWRIGHT in the Czech Republic for \$9,000.00 covering the flat fee for Solicitation SP0600-05-R-0046, which included at least six into-plane locations where FERAS or AEROCONTROL was competing directly against AVCARD.

E. On or about March 21, 2005, WILKINSON wired BITTENBENDER \$9,000.00 via interstate wire transfer from New York to the District of Maryland for BITTENBENDER'S services on behalf of FERAS and AEROCONTROL.

F. On or about April 7, 2005, four days before initial bids were due on DESC Solicitation SP0600-05-R-0046, BITTENBENDER sent email to WILKINSON with the subject heading "Known competition?," in which he divulged what AVCARD was bidding at several airport locations and described where FERAS and AEROCONTROL had an advantage over AVCARD based on price.

G. On or about April 8, 2005, after AVCARD submitted its bid for DESC Solicitation SP0600-05-R-0046, BITTENBENDER sent email to WILKINSON informing him that AVCARD had bid high at Tashkent, Uzbekistan and asking him if he would like to raise his own bid, so as to maximize the profit margin.

H. On or about April 8, 2005, BITTENBENDER sent an updated invoice to WILKINSON reflecting four additional into-plane locations where FERAS or AEROCONTROL bid directly against AVCARD. On or about May 4, 2005, WILKINSON sent BITTENBENDER an international wire transfer for \$1,510.00.

I. On or about April 9, 2005, after AVCARD submitted its bid for DESC Solicitation SP0600-05-R-0046, BITTENBENDER conveyed to CARTWRIGHT and WILKINSON AVCARD'S updated confidential bid information at locations where FERAS or AEROCONTROL were bidding against AVCARD.

J. From in or about the end of February 2005 through when initial bids for DESC Solicitation SP0600-05-R-0046 were due on April 11, 2005, BITTENBENDER placed more than fifteen international calls from his office telephone in Hunt Valley, Maryland to WILKINSON in the Czech Republic to discuss developments in the DESC bidding process.

K. On or about April 11, 2005, FERAS and AEROCONTROL submitted their bids for Solicitation SP0600-05-R-0046 via international facsimile from the Czech Republic to DESC in the Eastern District of Virginia.

L. On or about August 1, 2005, just in advance of the best and final bidding on Solicitation SP0600-05-R-0046, BITTENBENDER emailed a spreadsheet to WILKINSON comparing AVCARD'S price margins with those of FERAS and AEROCONTROL. In the cover email, BITTENBENDER told WILKINSON to look at the spreadsheet in anticipation of an upcoming telephone conversation.

M. On or about August 4, 2005, at approximately the same time that best and final bids were due for Solicitation SP0600-05-R-0046, BITTENBENDER conveyed AVCARD's best and final bid information to CARTWRIGHT and WILKINSON, thereby allowing them to underbid AVCARD at those airports where they were directly competing with AVCARD.

N. In or about early May 2005, DESC re-opened bidding for an into-plane fuel supply contract, Solicitation SP0600-04-R-0012, at Baku, Azerbaijan. In response to the bid re-opening, BITTENBENDER sent email to WILKINSON advising him that he could raise his profit margin from 4.1 cents per gallon to no higher than 7 cents per gallon and that even WILKINSON'S increased bid would defeat AVCARD'S bid at that location.

O. On or about May 10, 2005, BITTENBENDER sent an email of congratulations to WILKINSON and CARTWRIGHT informing them that DESC sent a letter of regret to AVCARD stating that FERAS was the awardee at Baku.

P. In or about June 2005, BITTENBENDER and WILKINSON negotiated a consulting agreement for BITTENBENDER'S assistance in assembling a bid in response to the PC&S Solicitation SP0600-05-R-0205 for Bagram, Afghanistan. By the end of June 2005, BITTENBENDER informed WILKINSON that AVCARD was also planning to bid on Solicitation SP0600-05-R-0205.

Q. Prior to October 2005, BITTENBENDER informed WILKINSON and CARTWRIGHT of the price AVCARD was bidding and its expected profit margin at Bagram in response to Solicitation SP0600-05-R-0205.

R. On or about October 10, 2005, BITTENBENDER sent an email to WILKINSON informing him that AVCARD had changed its price for Bagram, but that AVCARD had not yet determined its final bid price. Two days later, BITTENBENDER wrote to WILKINSON, telling him that AVCARD had now increased its bid at Bagram by 18 cents per gallon.

All in violation of Title 18, United States Code, Section 371.

COUNT 2: CONSPIRACY TO COMMIT WIRE FRAUD (18 U.S.C. § 1349)

DESCRIPTION OF THE OFFENSE

15. The United States re-alleges paragraphs one through ten of this Indictment and incorporates by reference these paragraphs as if they were fully set forth herein.

16. Beginning in or about February 2005 and continuing until at least in or about July 2006, the exact dates being unknown to the grand jury, in the District of Maryland and elsewhere, the defendants, CARTWRIGHT, WILKINSON, FERAS and AEROCONTROL, and their co-conspirators did knowingly and willfully combine, conspire, confederate, and agree with each

other to commit wire fraud by (1) devising and scheme and artifice to defraud BITTENBENDER'S employer, AVCARD, of the intangible right to his honest services by materially false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Sections 1343, 1346; and (2) devising a scheme and artifice to defraud BITTENBENDER's employer, AVCARD, of its confidential business information by materially false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Section 1343; all in violation of Title 18, United States Code, Section 1349.

17. As an employee of AVCARD, BITTENBENDER owed AVCARD a fiduciary duty, and by soliciting, buying, and receiving AVCARD'S misappropriated confidential business information WILKINSON, CARTWRIGHT, FERAS, and AEROCONTROL induced and conspired with BITTENBENDER to breach that fiduciary duty, knowing and intending that such a breach would cause AVCARD significant financial loss.

18. During BITTENBENDER'S employment with AVCARD, he defrauded AVCARD of its confidential business information for his, CARTWRIGHT'S, WILKINSON'S, FERAS'S, and AEROCONTROL'S pecuniary benefit, while falsely and fraudulently pretending that he was performing his duty of safeguarding AVCARD'S confidential business information.

19. For purposes of executing such scheme and artifice to defraud AVCARD, BITTENBENDER, CARTWRIGHT, WILKINSON, FERAS and AEROCONTROL transmitted and caused to be transmitted writings, signs, signals, pictures, and sounds by wire communications in interstate and foreign commerce.

MANNER AND MEANS

20. The defendants and their co-conspirators would and did carry out the conspiracy

and effect its unlawful objects and executed the scheme to defraud AVCARD through the following manner and means, among others:

- A. It was part of the conspiracy that BITTENBENDER would misappropriate AVCARD'S confidential bid information and the data underlying that bid information, including AVCARD'S "initial" and "best and final" bids for various DESC into-plane and PC&S fuel supply solicitations, including SP0600-05-R-0046, SP0600-04-R-0012, and SP0600-05-R-0205.
- B. It was part of the conspiracy that BITTENBENDER would transmit AVCARD'S confidential bid information and the data underlying that information to CARTWRIGHT, WILKINSON, FERAS, and AEROCONTROL via interstate and foreign email and telephone communications.
- C. It was part of the conspiracy that CARTWRIGHT and WILKINSON would use AVCARD'S bid information to bid against AVCARD at those locations where their companies, FERAS and AEROCONTROL, were directly competing with AVCARD, in such a way as to foreclose AVCARD from competing freely for these DESC contracts and as to impede, impair, obstruct, and defeat DESC in the lawful function of its competitive bidding process.
- D. It was part of the conspiracy that BITTENBENDER would breach the fiduciary duty he owed to AVCARD as an employee, and that BITTENBENDER, CARTWRIGHT, WILKINSON, FERAS and AEROCONTROL knew and intended that such a breach could cause AVCARD significant financial loss.
- E. It was part of the conspiracy that WILKINSON, CARTWRIGHT, FERAS,

and AEROCONTROL would pay BITTENBENDER a flat fee, plus a commission of 10% of the profits at every into-plane location where FERAS'S or AEROCONTROL'S bid successfully won the DESC contract. BITTENBENDER was also to be paid a percentage of the fuel sales for PC&S fuel supply contracts won by FERAS or AEROCONTROL.

F. It was part of the conspiracy that CARTWRIGHT, WILKINSON, FERAS, AEROCONTROL, and BITTENBENDER would conceal and misrepresent the nature and extent of their relationship from any other person, including AVCARD and DESC.

OVERT ACTS

21. The United States re-alleges the allegations set forth in paragraph 14, subparagraphs A through R, of this Indictment and incorporates by reference these paragraphs and subparagraphs as if they were fully set forth herein.

All in violation of Title 18, United States Code, Section 1349.

COUNT 3: CONSPIRACY TO STEAL TRADE SECRETS (18 U.S.C. § 1832(a)(5))

DESCRIPTION OF THE OFFENSE

22. The United States re-alleges paragraphs one through ten of this Indictment and incorporates by reference these paragraphs as if they were fully set forth herein.

23. In the normal course of its business providing fuel supply services in interstate and foreign commerce, AVCARD kept all information related to its bids, including subcontractor information, costs, economic data, business plans, the prices it intended to bid, and its bid packages, confidential and took reasonable measures to protect and keep secret this proprietary

information until it decided when, if ever, to publicize such information. Some of the protective measures AVCARD employed to safeguard its business information included maintaining the physical security of the AVCARD premises, limiting access to the confidential information only to those who needed it to perform their employment duties, implementing computer and data security policies, informing employees of their obligation to keep the information secret, and requiring employees, as a condition of employment, to adhere to a Corporate Ethics Statement, which expressly advised employees to safeguard AVCARD'S confidential information.

24. AVCARD derived independent economic value, both actual and potential, from its confidential bid information and the data underlying that bid information not being generally known to, or readily ascertainable through proper means by, the public.

25. AVCARD'S confidential bid information and the data underlying that bid information constitutes trade secrets as defined in 18 U.S.C. § 1839(3)(A)-(B).

26. Beginning in or about February 2005 and continuing until at least in or about July 2006, the exact dates being unknown to the grand jury, in the District of Maryland and elsewhere, the defendants CARTWRIGHT, WILKINSON, FERAS and AEROCONTROL and their co-conspirators did knowingly and willfully combine, conspire, confederate, and agree with each other to convert for their own economic benefit AVCARD'S trade secrets, namely, AVCARD'S confidential bid information and data underlying that bid information, which were related to a product, namely fuel supply services, placed in interstate and foreign commerce by (a) knowingly stealing and without authorization appropriating, taking, carrying away and concealing those trade secrets, and by fraud, artifice, and deception obtaining those trade secrets; and (b) knowingly receiving, buying, and possessing those trade secrets, knowing them to have been

stolen and appropriated, obtained, and converted without authorization; and knowing and intending all of their actions would substantially injure AVCARD, all in violation of Title 18, United States Code, Sections 1832(a)(1), (3), (5).

MANNER AND MEANS

27. The defendants and their co-conspirators would and did carry out the conspiracy and its unlawful objects and executed the scheme to convert AVCARD'S trade secrets for their own economic benefit through the following manner and means, among others:

A. It was part of the conspiracy that BITTENBENDER would misappropriate AVCARD'S confidential bid information and the data underlying that bid information, including AVCARD'S "initial" and "best and final" bids for various DESC into-plane and PC&S fuel supply solicitations, including SP0600-05-R-0046, SP0600-04-R-0012, and SP0600-05-R-0205.

B. It was part of the conspiracy that BITTENBENDER would transmit AVCARD'S confidential bid information and the data underlying that information to CARTWRIGHT, WILKINSON, FERAS, and AEROCONTROL via interstate and foreign email and telephone communications.

C. It was part of the conspiracy that CARTWRIGHT and WILKINSON would use AVCARD'S bid information to bid against AVCARD at those locations where their companies, FERAS and AEROCONTROL, were directly competing with AVCARD, in such a way as to foreclose AVCARD from competing freely for these DESC contracts and as to impede, impair, obstruct, and defeat DESC in the lawful function of its competitive bidding process.

D. It was part of the conspiracy that WILKINSON, CARTWRIGHT, FERAS, and AEROCONTROL knew and intended that stealing and without authorization appropriating, taking, carrying away and concealing AVCARD'S trade secrets, and by fraud, artifice, and deception obtaining those trade secrets, for their own benefit would substantially injure AVCARD economically.

E. It was part of the conspiracy that WILKINSON, CARTWRIGHT, FERAS, and AEROCONTROL knew and intended that receiving, buying, and possessing those trade secrets for their own benefit, knowing those trade secrets to have been stolen and appropriated, obtained, and converted without authorization, would substantially injure AVCARD economically.

F. It was part of the conspiracy that WILKINSON, CARTWRIGHT, FERAS, and AEROCONTROL would pay BITTENBENDER a flat fee, plus a commission of 10% of the profits at every into-plane location where FERAS'S or AEROCONTROL'S bid successfully won the DESC contract. BITTENBENDER was also to be paid a percentage of the fuel sales for PC&S fuel supply contracts won by FERAS or AEROCONTROL.

G. It was part of the conspiracy that WILKINSON, CARTWRIGHT, FERAS, AEROCONTROL, and BITTENBENDER would conceal and misrepresent the nature and extent of their relationship from any other person, including AVCARD and DESC.

OVERT ACTS

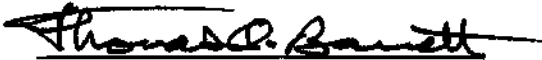
28. The United States re-alleges the allegations set forth in paragraph 14, subparagraphs A through R, of this Indictment and incorporates by reference these paragraphs as if they were fully set forth herein.

All in violation of Title 18, United States Code, Section 1832(a)(5).

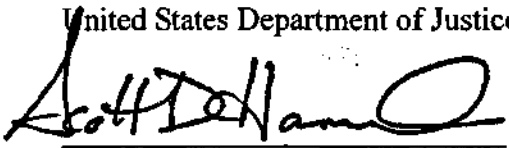
A TRUE BILL:

FOREPERSON

DATED: _____



THOMAS O. BARNETT
Assistant Attorney General
Antitrust Division
United States Department of Justice



SCOTT D. HAMMOND
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